

## **REMARKS**

### **Status of Claims**

The Office Action mailed October 18, 2005 has been reviewed and the comments of the Patent and Trademark Office have been considered. Claims 11, 12, 14, and 16 were pending in the application. No claims are amended, canceled or newly added. Therefore, claims 11, 12, 14, and 16 are pending in the application and presented for reconsideration.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

### **Prior Art Rejections**

In the Office Action, claims 11, 12, 14, and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,175,799 to Tsutsumi et al. (hereafter "Tsutsumi") in view of U.S. Patent 6,298,298 to Tange et al. (hereafter "Tange"). Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsutsumi and Tange in view of U.S. patent 5,540,299 to Tohda (hereafter "Tohda"). Applicants respectfully traverse these rejections for at least the following reasons.

*First*, Tange is removed as prior art under 35 U.S.C. § 103(c). See statement provided further herein. With Tange removed as a reference, the Office Action fails to make a prima facie case of obviousness with respect to the pending claims.

*Second*, even if Tange were not removed as a reference, the applied prior art does not disclose or suggest the features recited in the pending independent claims.

The independent claim 11 recites, *inter alia*, (a) correction quantity calculating section that calculates a correction quantity according to the lateral acceleration, (b) a vehicle *speed* calculating section that calculated a command vehicle speed by subtracting *the correction quantity* from a first value calculated from at least one of the target vehicle speed set by the operator and a second value calculated from the vehicle speed and the command vehicle speed variation, and (c) said correction quantity calculating section determining the correction quantity so that the correction quantity becomes smaller as the vehicle speed becomes higher".

The Office Action acknowledges that Tsutsumi does not disclose feature (c). Rather, the Office Action incorrectly relies on Tange for disclosing this feature.

The Office Action alleges that the claimed correction quantity corresponds to a correction coefficient  $\Delta Y_G$  disclosed by Tange. However, the correction coefficient  $\Delta Y_G$  disclosed by Tange corrects an *acceleration* and is not a correction value of the *vehicle speed* command value as required by each of the independent claims 11, 14, and 16.

That is, Tange's correction coefficient (quantity) of an acceleration as discussed above is very different from the command vehicle speed correction quantity claimed in the pending independent claims. The claimed command vehicle speed correction (in the pending claims) has a dimension same as that of a vehicle speed, and is employed to obtain the command vehicle speed by obtaining a difference between the command vehicle speed correction quantity and a first value having a dimension of a speed.

Therefore, the applied prior art does not disclose all of the features recited in the pending independent claims. Accordingly, the Office Action fails to make a prima facie case of obviousness with respect to the pending independent claims.

The dependent claim 12 is also allowable for at least the same reasons as the respective independent claim on which it ultimately depends. In addition, it recites additional patentable features when considered as a whole.

**Tange removed as a references under 35 U.S.C. § 103(c)**

The present application and the Tange reference (U.S. Patent No. 6,298,298) at the time the present invention was made, were owned by, or subject to an obligation of assignment to, the same entity (Nissan Motor Co. Ltd.). Therefore, the Tange reference is removed as a reference for obviousness purposes under 35 U.S.C. § 103(c).

**Conclusion**

In view of the foregoing amendments and remarks, applicants submit that the application is now in condition for allowance. If there are any questions regarding the application, or if an examiner's amendment would facilitate the allowance of one or more of the claims, the examiner is courteously invited to contact the undersigned attorney at the local telephone number below.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicants hereby petition for any needed extension of time.

Respectfully submitted,

Date January 18, 2005

FOLEY & LARDNER LLP

Customer Number: 22428

Telephone: (202) 672-5485

Facsimile: (202) 672-5399

By Aaron C. Chatterjee

Richard L. Schwaab

Registration No. 25,479

Aaron C. Chatterjee

Registration No. 41,398

Attorneys for Applicants